IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION No.16001 of 2004

Between:

D.V. Bhasakar S/o Tatabbai
R/o 12-163 Mosque Street, Dowlaiswaram, Rajahmundry Rural Mandal, E.G. District

..... PETITIONER

AND

1. The Government of Andhra Pradesh Irrigation Department,

   Secretariat, Saifabad, Hyderabad rep. by its Principal Secretary .

2. The District Collector, E.G. District Kakinada

3. The Superintendent Engineer, Irrigation Department Irrigation Circle, Dowlaiswaram E.G. District

4. The Mandal Revenue Officer, Rajahmundry Rural Mandal, Bommuru, E.G. District

5. The Dowlaiswaram Gram Panchayat Dowlaiswaram, Rajahmundry Rural Mandal, E.G. District rep by Panchayat Secretary.

6. Sri B. Jaya Shankaraiah, Director the Christ's Evangilical Mission D. No. 9-204-1, Dowlaiswaram, E.G. District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to

issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 to 5 in not taking action against the 6th respondent, in evicting unauthorised occupation is illegal, arbitrary and consequently direct the respondents 1 to 5 to evict the 6th respondent forthwith from R.S. No. 112 Dowlaiswaram Village, Rajahmundry Rural Mandal, E.G. District

COUNSEL FOR THE PETITIONER:MR.B.SOMASEKHAR

COUNSEL FOR THE RESPONDENT NOS.1 AND 3: GP FOR IRRIGATION AND COMMAND AREA DEVELOPMENT.

COUNSEL FOR THE RESPONDENT NOS.2 AND 4: GP FOR REVENUE

COUNSEL FOR THE RESPONDENT NO.5: MR. DAMMALAPATI SRINIVAS

COUNSEL FOR THE RESPONDENT NO.6:MR.B.DEVANAND.

The Court made the following Oral Order: (per Sri Devinder Gupta,CJ)

Petition is purported to have been filed as “Public Interest Litigation” questioning the inaction on the part of the Respondents 1 and 2 in taking out proceedings against the 6th respondent in evicting him from the land in Revenue Survey No.112 of Dowlaiswaram Village, Rajahmundry Rural Mandal, East Godavari District and to pass appropriate orders thereafter.

Petitioner is a Member of Mandal Parishad Territorial Constituency of Dowlaisawaram Village, Rajahmundry Rural Mandal, East Godavari District. He alleges that the only source of drainage canal of the village is vura drain, which stretches about 5 K.Ms. It is stated that some parts of Dowlaiswaram Village are low lying areas and the village drain passes through slums and collects drain and rain

water. Petitioner complains that the drain is being neglected by the concerned Department. It is also alleged that the 6th respondent has erected a shed for the purpose of conducting free medical camp by encroaching the village drain as well as adjacent poramboke land belonging to the Government. Further, the 6th respondent also made a representation to the 5th respondent requesting to permit him to raise temporary asbestos sheet shed for the purpose of conducting free medical camp for about 10,000 people for three months and also undertook to vacate the area by 25.2.2004, which was not done. Petitioner has made reference to filing of Writ Petition No.3275 of 2004 by the 6th respondent seeking direction for alienation of the land and has further alleged that since there is encroachment made by the 6th respondent, no action is being taken by the respondents 1 to 5.

Only Respondent No. 6 has filed affidavit in reply. The other respondents have not chosen to file any affidavit.

Respondent No.6 states that Writ Petition No. 3275 of 2004 was filed by the organization to which he belongs and the subject matter of Writ Petition was non-consideration the representation of the organization for alienation of vacant land to the extent of 0.60 cents in R. S. No. 112 of Dowlaiswaram Village, East Godavari District in terms of Section 89(1) of the Andhra Pradesh Land Reenue Code, 1999.

Learned counsel for the Respondent No.6 states that pursuant to direction issued by the Court, Collector has called for a report from the Mandal Revenue Officer and the Mandal Revenue Officer has also sent his report and the matter is pending consideration before the 2nd respondent. Respondent No.6 in the affidavit has alleged that petitioner has not come to the Court with clean hands and he himself has encroached upon the drain land and constructed a pucca house.

Considering the facts and circumstances, no other or further directions deserves to be issued in this petition except directing the Respondents 1 and 2 to keep in mind the allegations made by the petitioner in the writ petition and also to comply with the directions issued by the Court in Writ Petition No. 3275 of 2004 and take appropriate decision in accordance with law and ensure that there is no disturbance or obstruction for free flow of drainage water and if there is any encroachment, appropriate steps are taken out for keeping the land free from encroachment. Further, the 2nd respondent will also see that no encroachment is made by the

petitioner on the drain land. In case, there is any encroachment, he would take steps to remove the same in accordance with law. The respondents will take appropriate decision in the matter within two months from the date of receipt of a copy of Writ Order from the Court.

The writ petition is accordingly disposed of.

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DEVINDER GUPTA, CJ

DATE : 4th February, 2005

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M. NARAYANA REDDY,J

pnb

To

1. The Principal Secretary, Government of Andhra Pradesh Irrigation Department, Secretariat, Saifabad, Hyderabad .
2. The District Collector, E.G. District Kakinada
3. The Superintendent Engineer, Irrigation Department Irrigation Circle, Dowlaiswaram E.G. District
4. The Mandal Revenue Officer, Rajahmundry Rural Mandal, Bommuru, E.G. District
5. The Panchayat Secretary, Dowlaiswaram Gram Panchayat Dowlaiswaram, Rajahmundry Rural Mandal, E.G. District.
6. Two CCs to G.P. for Revenue, High Court of A.P., Hyderabad(OUT).
7. Two CCs to G.P. for Irrigation and Command Area Development, High Court of A.P., Hyderabad (OUT).
8. Two CD copies.